

***Commercial Vehicle Safety Symposium***  
***Civil Liability***



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# *Civil Liability*

A broad review of foundational concepts, state laws, and evolving trends related to civil liability arising from commercial motor vehicle operations in Pennsylvania

# ***Foundational Concepts***

## ***Criminal Liability***

- *Guilty Act & Guilty Mind*
- *Burden is Reasonable Doubt*
- *Liberty at Risk*
- *Elements defined by statute, regulation, and common law*

## ***Civil Liability for Torts***

- *Duty, Breach, Causation, Damages*
- *Burden is Preponderance of Evidence*
- *Dollars at Risk*
- *Elements defined by statute, regulation, and common law*



# ***Pennsylvania Laws***

## ***Common Law Negligence***

“...the plaintiff must demonstrate that the defendant owed a **duty** of care to the plaintiff, the defendant **breached** that duty, the breach [**caused**] injury to the plaintiff, and the plaintiff suffered an actual **loss or damage**. *Reilly v. Tiergarten Inc.*, 430 Pa.Super. 10, 14, 633 A.2d 208, 210 (1993), *alloc. denied*, 538 Pa. 673, 649 A.2d 675 (1994). **Negligence is the absence of ordinary care** that a reasonably prudent person would exercise in the same or similar circumstances. *Lanni v. Pennsylvania R. Co.*, 371 Pa. 106, 88 A.2d 887 (1952). See also Pa. SSJI (Civ) 3.01 ... the **plaintiff has the burden** of establishing, by a **preponderance of the evidence**, that the defendant engaged in conduct that deviated from the general standard of care expected under the circumstances, and that this deviation proximately caused actual harm. *Hamil v. Bashline*, 481 Pa. 256, 392 A.2d 1280 (1978).”

***Martin v. Evans***, 551 Pa. 496, 502, 711 A.2d 458, 461 (1998)

# ***Pennsylvania Laws***

## ***Modified Comparative Negligence***

***Plaintiff's recovery is reduced by Plaintiff's contribution but 51% contribution bars recovery***

“[the **plaintiff's] contributory negligence shall not bar a recovery** by the plaintiff or his legal representative **where such negligence was not greater than the causal negligence of the defendant** or defendants against whom recovery is sought, but any damages sustained by the plaintiff shall be diminished in proportion to the amount of negligence attributed to the plaintiff.

**42 Pa. Stat. and Cons. Stat. Ann. § 7102(a)**



# ***Pennsylvania Laws***

## ***Joint and Several Liability***

(1) Where recovery is allowed against more than one person ... **each defendant shall be liable ... in the ratio of the amount of that defendant's liability ...**

(2) Except as set forth in paragraph (3), a defendant's liability shall be several and not joint, and the court shall enter a separate and several judgment in favor of the plaintiff ... for the apportioned amount of that defendant's liability.

(3) **A defendant's liability in any of the following actions shall be joint and several**, and the court shall enter a joint and several judgment ... **for the total dollar amount awarded as damages:**

...

(iii) **Where the defendant has been held liable for not less than 60%** of the total liability apportioned to all parties.

**42 Pa. Stat. and Cons. Stat. Ann. § 7102(a.1)**

# ***Evolving Trends***

## ***Sovereign Immunity Exceptions (PA)***

- ***(1) vehicle liability...;***
- ***(2) medical-professional liability...;***
- ***(3) care, custody or control of personal property...;***
- ***(4) commonwealth real estate, highways and sidewalks...;***
- ***(5) potholes and other dangerous conditions...;***
- ***(6) care, custody or control of animals...;***
- ***(7) liquor store sales...;***
- ***(8) national guard activities...;***
- ***(9) toxoids and vaccines....***

***42 P.S. § 8522(b)***



# ***Evolving Trends***

## ***Municipal Immunity Exceptions (local government)***

- ***(1) vehicle liability...;***
- ***(2) care, custody or control of personal property...;***
- ***(3) real property...;***
- ***(4) tress, traffic controls and street lighting...;***
- ***(5) utility service facilities...;***
- ***(6) streets...;***
- ***(7) sidewalks...;***
- ***(8) care, custody or control of animals....***

***42 P.S. § 8522(b)***



# ***Civil Liability Take Aways***

- ***Civil Negligence – duty, breach, cause, damages***
- ***PA modified comparative negligence applies (51% bars recovery)***
- ***PA Fair Share Act modifies Joint and Several Liability to eliminate lopsided damage allocations in joint torts***
- ***Details of investigation are critical in determining the proper allocation of liability and damages***

# Thank you – Questions?

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